

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

KENDRICK HOOKER, #2089802,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Respondent.

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Case No. 6:21-cv-188-JDK-JDL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**


Petitioner Kendrick Hooker, a Texas Department of Criminal Justice prisoner proceeding pro se, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The case was referred to United States Magistrate Judge, John D. Love, for findings of fact, conclusions of law, and recommendations for the disposition of the case. Docket No. 4. On June 14, 2021, Judge Love issued a Report recommending that the petition be dismissed with prejudice as barred by the applicable statute of limitations and that a certificate of appealability be denied. Docket No. 10. A copy of this Report was sent to Plaintiff, and Plaintiff acknowledged receipt of the Report on June 21, 2021. Docket No. 12.

This Court reviews the findings and conclusions of the Magistrate Judge de novo if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Petitioner did not object in the prescribed period. He filed a premature application for certificate of appealability, but the filing does not identify a specific objectionable finding or recommendation by the Magistrate Judge or state any basis for objection. Docket No. 13. It does not even address the timeliness of the petition, which is the basis for the recommended dismissal. Accordingly, the application is not deemed to constitute an objection to the Report and Recommendation. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.>").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 10) as the findings of this Court. Petitioner's petition for habeas corpus is hereby **DISMISSED** with prejudice as untimely. The Court **DENIES** a certificate of appealability. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **29th** day of **July, 2021**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE